

§ 4.471

Director. The appeal, motion, the proofs of service (see § 4.401(c)), and the answers will be transmitted to the Hearings Division, Office of Hearings and Appeals, Salt Lake City, Utah. An administrative law judge, shall rule on the motion, and, if the motion is sustained, dismiss the appeal by written order.

§ 4.471 Time and place of hearing; notice; intervenors.

At least 30 days before the date set by the administrative law judge the authorized officer will notify the appellant of the time and place of the hearing within or near the district. Any other person who in the opinion of the authorized officer may be directly affected by the decision on appeal will also be notified of the hearing; such person may himself appear at the hearing, or by attorney, and upon a proper showing of interest, may be recognized by the administrative law judge as an intervenor in the appeal.

§ 4.472 Authority of administrative law judge.

(a) The administrative law judge is vested with the duty and general authority to conduct the hearing in an orderly, impartial, and judicial manner, including authority to subpoena witnesses, recognize intervenors, administer oaths and affirmations, call and question witnesses, regulate the course and order of the hearing, rule upon offers of proof and the relevancy of evidence, and to make findings of fact, conclusions of law, and a decision. The administrative law judge shall have authority to take or to cause depositions to be taken. Subpoenas, depositions, the attendance of witnesses, and witness and deposition fees shall be governed by § 4.26 of the general rules in Subpart B of this part, to the extent such regulations are applicable.

(b) The administrative law judge also may grant or order continuances, and set the times and places of further hearings. Continuances shall be granted in accordance with § 4.452-3.

§ 4.473 Service.

Service of notice or other documents required under this subpart shall be

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governed by §§ 4.413 and 4.422. Proof of such service shall be filed in the same office where the notice or document was filed within 15 days after such service, unless filed with the notice or document.

§ 4.474 Conduct of hearing; reporter's fees; transcript.

(a) The appellant, the State Director or his representative, and recognized intervenors will stipulate so far as possible all material facts and the issue or issues involved. The administrative law judge will state any other issues on which he may wish to have evidence presented. Issues which appear to the administrative law judge to be unnecessary to a proper disposition of the case will be excluded; but the party asserting such issue may state briefly for the record the substance of the proof which otherwise would have been offered in support of the issue. Issues not covered by the appellant's specifications of error may not be admitted except with the consent of the State Director or his representative, unless the administrative law judge rules that such issue is essential to the controversy and should be admitted. The parties will then be given an opportunity to submit offers of settlement and proposals of adjustment for the consideration of the administrative law judge and of the other parties.

(b) Unless the administrative law judge orders otherwise, the State Director or his representative will then make the opening statement, setting forth the facts leading to the appeal. Upon the conclusion of the opening statement, the appellant shall present his case, consistent with his specifications of error. (In the case of a show cause, the State Director shall set forth the facts leading to the issuance of the show cause notice and shall present his case following the opening statement.) Following the appellant's presentation, or upon his failure to make such presentation, the administrative law judge, upon his own motion or upon motion of any of the parties, may order summary dismissal of the appeal with prejudice because of the inadequacy or insufficiency of the appellant's case, to be followed by a written order setting forth the reasons for the